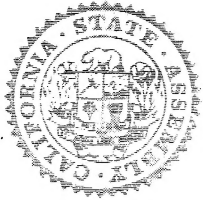


REPORT OF THE  
OFFICE OF THE AUDITOR GENERAL  
TO THE  
JOINT LEGISLATIVE AUDIT COMMITTEE

853

A PROGRAM REVIEW OF THE  
DEPARTMENT OF CONSUMER AFFAIRS' DIVISION OF  
INVESTIGATION AND DIVISION OF CONSUMER SERVICES

JANUARY 1979



CHAIRMAN  
RICHARD ROBINSON  
SANTA ANA

ASSEMBLYMEN  
DANIEL BOATWRIGHT  
CONCORD

EUGENE A. CHAPPIE  
ROSEVILLE

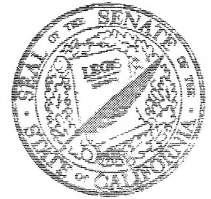
MIKE CULLEN  
LONG BEACH

# Joint Legislative Audit Committee

OFFICE OF THE AUDITOR GENERAL

## California Legislature

RICHARD ROBINSON  
CHAIRMAN



VICE CHAIRMAN  
ALBERT RODDA  
SACRAMENTO

SENATORS  
PAUL CARPENTER  
CYPRESS

GEORGE DEUKMEJIAN  
LONG BEACH

NATE HOLDEN  
LOS ANGELES

February 1, 1979

853

The Honorable Speaker of the Assembly  
The Honorable President pro Tempore  
of the Senate  
The Honorable Members of the Senate  
and the Assembly of the Legislature  
of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully submits the Auditor General's report on the program review of the Department of Consumer Affairs' Division of Investigation and Division of Consumer Services.

The report identifies opportunities which exist to improve the performance of these divisions. It addresses the need for certain procedures regarding investigation and inspection activities and the need for a revised funding method in the Division of Investigation. The report identifies the need to modify the Division of Consumer Services' time reporting system.

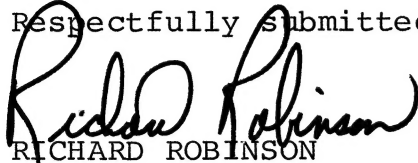
Due to a lack of screening and assigning priorities to investigations, investigations are not completed in a timely manner and are initiated without the assurance that the measures used to resolve the investigation are the least costly. The average delay is 102.2 days to complete an investigation which averaged 9.5 hours of investigative time.

The report also provides other pertinent information requested by the Legislature regarding progress made on problems previously identified in the Division of Consumer Services.

Joint Legislative Audit Committee

The auditors are William M. Zimmerling, CPA, Supervising Auditor; Robert T. O'Neill, Jr.; and James McAlister. Support staff is Lucy Chin.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Richard Robinson". The signature is fluid and cursive, with the first name "Richard" and last name "Robinson" clearly distinguishable.

RICHARD ROBINSON  
Assemblyman, 72nd District  
Chairman, Joint Legislative  
Audit Committee

RR:JA:pam

## TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	1
INTRODUCTION	4
AUDIT RESULTS	
The Efficiency and Effectiveness of Investigation and Inspection Activities Could Be Increased	7
Recommendation	14
Corrective Actions Taken	16
The Current Method of Funding the Division of Investigation Impairs Its Effectiveness	17
Matters for Consideration By the Legislature	22
The Division of Consumer Services' Time Reporting System Could Be Improved	24
Recommendation	33
Corrective Actions Taken	34
OTHER PERTINENT INFORMATION	35
WRITTEN RESPONSE TO THE AUDITOR GENERAL'S REPORT	
Director, Department of Consumer Affairs	42
APPENDICES	
Appendix A--Department of Consumer Affairs Division of Consumer Services Personnel Staffing as of December 4, 1978	A-1
Appendix B--Department of Consumer Affairs Division of Consumer Services Fiscal Year 1978-79 Budget	B-1

## SUMMARY

The Department of Consumer Affairs' Division of Investigation provides investigation and inspection services to the Department's 38 regulatory agencies. The Division of Consumer Services provides consumer education, information, protection, representation and other services as specified by the department director. We found that opportunities exist to increase the efficiency and effectiveness of each of these divisions.

The Division of Investigation needs to establish procedures for screening and assigning priorities to investigations and establish criteria for more selective use of investigators and inspectors. A sample of investigations performed by the division showed that the average investigation lasts approximately 102 days before a recommendation is made to the appropriate board or bureau and requires 9.5 hours of investigative time. On pages 14 and 15 we make recommendations for improving the performance of investigative and inspection activities.

We determined also that the current method of funding the Division of Investigation has forced reductions and interruptions in investigation and inspection activity.

Expenditures for these activities have declined relative to overall expenditures in the past two years, and inspection activity has been reduced by approximately 40 percent in the five major agencies for which the division conducts inspections. In addition, 11 times in the past three fiscal years the division has had to cease, reduce or otherwise modify the level of investigation or inspection activity performed for certain agencies.

We recommend that the funding method for enforcement activities in the Division of Investigation be changed to provide support for a more stable and consistent level of activity. On pages 22 and 23 we recommend funding alternatives for consideration by the Legislature.

The Division of Consumer Services' time reporting system used to monitor General Fund and special fund expenditures does not provide adequate information on project costs, or useful information for program management. On pages 33 and 34 we identify a number of changes which could make the time reporting system more viable.

We have also provided information requested by the Legislature on progress made in problems previously identified in the Division of Consumer Services. These problems were related

to exercising management control, establishing goals, objectives and priorities and conducting program evaluations. Generally, we found that policies and procedures have been established and are being implemented in these areas. However, these policies and procedures need additional refinement in some areas.

We have also provided information requested on staffing and unit budgets in the Division of Consumer Services. This information is in Appendices A and B.

## INTRODUCTION

In response to a resolution of the Joint Legislative Audit Committee and the Supplemental Report of the Committee of Conference on the Budget Bill for 1978-79, we have conducted a program review of two divisions of the Department of Consumer Affairs. This review was conducted under the authority vested in the Auditor General by Section 10527 of the Government Code.

### Background

The Department of Consumer Affairs was created by the Consumer Affairs Act of 1970 and subsequent implementing legislation in 1971 and is responsible for consumer representation and protection. To this end, the Department regulates licensed professions and occupations and provides representation, education, information, complaint mediation and other services to California consumers.

The Department of Consumer Affairs is composed of three divisions and 38 regulatory boards, bureaus, commissions and committees. The divisions provide services to boards and California consumers. The Department is responsible for licensing, registering and regulating professionals in a variety of occupations. Over 1,000,000 individuals are licensed by the



Department. The Legislature, over the years, has enacted laws mandating responsibility for managing these licensees to the agencies in the Department of Consumer Affairs.

The divisions are organized functionally to provide particular services. The Division of Administration provides basic support services such as accounting and personnel services. The Division of Investigation provides investigation and inspection services to the regulatory agencies upon request. The Division of Consumer Services has the major responsibility for implementing the Consumer Affairs Act of 1970. It provides consumer education, information, protection and representation services.

#### Scope of Review

We reviewed the function, operation and performance of each unit within the three divisions of the Department of Consumer Affairs. We audited the major issues identified in this review in the Divisions of Investigation and Consumer Services. Since the Department of General Services, the State Personnel Board and the Joint Revenue Sharing Task Force were in the process of auditing procedural, personnel and financial activities within the Division of Administration, we did not audit that division.

Our fieldwork included reviewing previous audits, studies, reports and legislative testimony regarding the Department of Consumer Affairs, conducting interviews with department personnel, reviewing records and collecting data on the divisions' activities. We gathered other pertinent information, including progress made in correcting previously identified problems and budget and staffing information.

## AUDIT RESULTS

### THE EFFICIENCY AND EFFECTIVENESS OF INVESTIGATION AND INSPECTION ACTIVITIES COULD BE INCREASED

The Division of Investigation's (DOI) efficiency and effectiveness could be improved by establishing procedures for screening and assigning priorities to investigations and establishing criteria for more selective use of investigators and inspectors. Due to the insufficiency of current procedures in these areas, the division's investigations are not completed in a timely manner and investigations are initiated without assurance that less costly means of case disposition have been exhausted. In addition, current inspection requirements are not being met due to insufficient funding.

#### Background on the Division of Investigation

The Division of Investigation was established by executive order in 1961. The intent was to provide agencies with access to competent, trained investigators, achieve economies of scale associated with a centralized organization and ensure that investigations would be conducted with independence and impartiality.

Need for Procedures for  
Screening and Assigning  
Priorities to Investigations

The Division of Investigation's formal policies do not define what actions agencies should take prior to referring cases to the division. A review of the investigation policies and procedures of 15 boards and bureaus contained in the Division of Investigation Manual of Procedures showed that only 6 of the 15 had established procedures for screening or assigning priorities to cases.

Division management stated a concerted effort was made in fiscal year 1975-76 to get agencies to screen cases prior to referring them for investigation to make the best use of investigation resources. The Department requested boards to intensify screening efforts through use of consumer service representatives and methods such as substituting correspondence and telephone contacts for field contacts. While these efforts helped reduce caseloads in fiscal year 1976-77, more recently caseloads have risen. We found there is still a need for screening and assigning priority to cases prior to referring them to DOI for investigation.

We reviewed a random sample of 262 investigations which the Division of Investigation opened in fiscal years 1976-77 and 1977-78 and closed during fiscal year 1977-78. Table 1 provides

information on the average number of days investigations were open and the average number of hours of investigative time expended.

TABLE 1  
ANALYSIS OF AVERAGE NUMBER OF DAYS INVESTIGATIONS OPEN  
AND INVESTIGATION TIME EXPENDED

Type of Investigation*	Number of Investigations	Average Number of Days per Case			Average Number of Hours of Investigation Time per Case
		Open** to DOI Recommendation	DOI Recommendation to Board Closure***	Total Open to Closure	
Routine Investigation	191	87.0	28.4	115.4	8.3
Disciplinary Action	18	283.5	18.7	302.2	24.4
Criminal Prosecution	24	85.9	14.2	100.2	11.3
Statement of Issues	1	313.0	101.0	414.0	13.2
New Schools and Facilities	16	32.1	19.4	51.6	3.5
Junior Operator	10	164.0	13.0	177.0	4.5
Administrative and Criminal	<u>2</u>	<u>262.5</u>	<u>25.5</u>	<u>288.0</u>	<u>37.6</u>
TOTAL	<u>262</u>				
WEIGHTED AVERAGES		102.2	25.5	127.8	9.5

\* Under current DOI procedures most cases are referred as routine investigations. Subsequently, status changes are made in the type of investigation as warranted.

\*\* Investigation cases are opened when a request for service form is received by DOI. Once DOI makes a recommendation to a board, the board must take action to close the investigation.

\*\*\* A DOI investigation is closed when a recommendation to do so is received from a board.

As shown, an investigation was open an average of 102.2 days prior to the division making a recommendation to the appropriate board or bureau. Once the division made a recommendation, boards and bureaus closed the investigations in an average of 25.5 days. In total, an investigation was open an average of 127.8 days and an average of 9.5 hours of investigative time was expended.

Table 1 shows that it took approximately 115 days and an average of 8.3 hours of investigative time to complete most investigations. It took considerably longer to complete routine involved investigations such as disciplinary actions, which took approximately 302 days to close and an average of 24.4 hours of investigative time. We did not determine the extent to which funding interruptions, as discussed on page 23, may have negatively affected the timeliness of investigations.

Table 2 shows an analysis of the disposition of the investigations reviewed. This analysis provides additional information on the composition of the division's workload by illustrating the number and method of disposition of investigations.

TABLE 2  
ANALYSIS OF DISPOSITIONS OF INVESTIGATIONS  
SAMPLE OF INVESTIGATIONS OPENED DURING FY 1976-77  
AND FY 1977-78 AND CLOSED DURING FY 1977-78

<u>Method of Disposition</u>	<u>Number of Investigations</u>	<u>Percent of Total</u>	<u>Average Number of Days Investigation Open</u>	<u>Average Number of Hours per Investigation</u>
Respondent Out of Business	17	6%	101.3	6.5
Compliance Obtained	62	24%	160.5	9.8
Fees Paid	23	9%	63.0	5.0
Complaint Unconfirmed	96	37%	119.2	8.7
Inspection Completed	40	15%	77.3	3.2
Hearing Recommended	<u>24</u>	<u>9%</u>	<u>242.4</u>	<u>28.7</u>
TOTALS	<u>262</u>	<u>100%</u>		
WEIGHTED AVERAGES			127.8	9.5

Approximately 16.5 percent of these investigations might have been handled less expensively if agencies had resolved the cases rather than referred them to DOI. These investigations included cases resulting in fees being paid by the licensees (9%) and in DOI determining that the respondent was out of business (6%). In addition, another four investigations which were categorized as criminal actions in DOI's reporting system were actually fee paid investigations (1.5%).

The division's current procedures do not ensure that boards and bureaus have exhausted all means available to them, such as letter and telephone inquiries, in their efforts to resolve these cases prior to referring the cases for investigation. By resolving their own cases, agencies would not incur an expense for DOI services.

#### Need for More Selective Use of Investigators and Inspectors

The Division of Investigation is currently authorized 53 investigator and 17 inspector positions. Investigators are responsible for detecting and verifying suspected violations of laws, rules or regulations. This is done by interviewing witnesses and suspects, obtaining facts and evidence and doing other work as necessary to bring action or prosecution. Investigators' time is currently charged to agencies at the rate of \$27.94 per

hour. Inspectors assure compliance with the provisions of the Administrative and Business and Professions Codes by conducting inspections of business activities. Inspectors' time is charged to agencies at the rate of \$23.84 per hour.

The division currently collects management information on investigation and inspection activities. We found that special types of inspection activities were categorized as investigations and often were performed by investigators, even though the nature of the activity required inspector skills. These included inspections of new schools and facilities, junior operator inspections and inspections of employment agencies.

In our sample of 262 investigations we reviewed the case files of 38 special inspections which were classified as investigations. We found that 26 of these 38 special inspections (68%) were conducted by investigators. If these activities had been conducted by inspectors the division could have achieved savings since inspectors' time costs less than investigators'.

According to division management, investigators conduct inspection activities because the division does not have enough inspectors. The division is budgeted for 17 inspectors in fiscal year 1978-79, but only 13 positions are filled due to budgetary constraints. However, the division does not have formal procedures which indicate when investigators should be used to conduct inspections.



Current Requirements for  
Inspection Frequency  
Are Not Being Met

The division is not meeting the frequency of inspection requirements for boards and bureaus established in the division's Manual of Policies and Procedures. For example, the Bureau of Home Furnishings requires that licensees be inspected at least every 18 months. During fiscal year 1977-78, the Bureau of Home Furnishings had 23,500 licensees; however, only 7,285 inspections were conducted. At this rate, these licensees would be inspected approximately once every three years.

According to division management, the requirements for frequency of inspections cannot be met due to the low level of inspector staffing. Current division procedures make it the responsibility of individual inspectors to plan and organize their work to provide adequate coverage of assigned territory with a minimum of travel and expense. Since the current number of inspectors cannot meet the requirements for inspection frequency, division management said that inspections are done on an "as needed basis". Certain establishments, such as repeat violators or those with the longest time period since last inspection are given priority. However, the division has not established formal criteria or guidelines for the selection of establishments to be inspected.

## CONCLUSION

The Division of Investigation's insufficient policies and procedures relating to investigation and inspection activity impede the division's performance. There is a need to screen and assign priorities to investigations and to be more selective in the use of investigators and inspectors. Due to the lack of these procedures, investigations are not completed in a timely manner and are initiated without the assurance that the means used to resolve the investigations are the least costly. In addition, inspection requirements are not being met.

## RECOMMENDATION

We recommend that the Department of Consumer Affairs:

- Establish procedures requesting agencies to take certain actions, such as making telephone contacts and letter inquiries, prior to referring cases to the division
- Request agencies to review their inspection requirements and revise frequency of inspection requirements as appropriate.

We recommend that the Division of Investigation:

- Establish formal procedures to screen and assign priorities to cases referred for investigation and modify the "request for service" form to reflect what actions agencies have taken to resolve a case prior to referral
- Review its management information system to determine the adequacy and usefulness of the information currently provided. Specifically, the division should review categories of information regarding the classification of investigation and inspection activities. The division should also consider gathering data on the method of disposition of investigations to better evaluate its activities
- Establish formal procedures regarding the use of investigators and inspectors for special types of inspections in an effort to reduce investigative costs
- Establish formal selection criteria and procedures for the selection of establishments and licensees for inspection.

#### CORRECTIVE ACTIONS TAKEN

During the course of the audit, the Department of Consumer Affairs took the following actions to address certain of these problems. The Department:

- Requested agencies to review and update policy and procedure manuals. Specifically, agencies were requested to update priorities for complaint handling and referring complaints for investigation and report on their enforcement priorities by June 30, 1979
- Established a procedure within the Division of Investigation to screen all cases received from agencies to determine if they are within its jurisdiction
- Began monitoring the disposition of completed investigations returned to agencies when the investigation indicated possible criminal activity and began monitoring cases referred to law enforcement agencies
- Initiated a management analysis of the Division of Investigation focusing on management control and board enforcement mechanisms.

THE CURRENT METHOD OF FUNDING  
THE DIVISION OF INVESTIGATION  
IMPAIRS ITS EFFECTIVENESS

The current method of funding the Division of Investigation has forced reductions and interruptions in investigation and inspection activities. DOI is reimbursed for services provided to boards and bureaus. DOI's budget is the total of board and bureau budgets for investigation and inspection activities. While other activities of boards and bureaus generate revenue, the enforcement function does not. Thus, agencies have greater flexibility to reduce expenditures in this area. In recent years, enforcement spending has declined relative to other expenditures. As a result, DOI has had to cease investigations of existing cases, certain routine inspection activity has been delayed and reduced, and referral of additional cases from agencies to DOI has been delayed.

Funding of Division of Investigation

DOI provides the investigation services for agencies in the Department of Consumer Affairs. DOI charges for its services at a rate of \$27.94 per hour for investigators and \$23.84 per hour for inspectors. DOI's charges for fiscal year 1977-78 totaled \$2,364,184.

The level of activity DOI plans for each year is based on the amounts budgeted by agencies for DOI reimbursement. However, there is no requirement that the amounts budgeted for enforcement activity actually be spent on enforcement. In fact, enforcement is the only area of substantial cost to most agencies that is not a fixed cost or, as mentioned above, does not produce revenue. Enforcement is the one area where agencies can curtail the level of expenditures.

#### Level of Enforcement Activity

Over the past two years, 15 of 22 agencies we reviewed have decreased expenditures for investigation and inspection activity relative to overall board and bureau expenditures. For example, the Bureau of Home Furnishings has increased general expenditures 15 percent over the last two years, but expenditures for DOI services have declined 39 percent in that same period. Similarly, the Board of Fabric Care has increased general expenditures 7 percent since fiscal year 1975-76, but expenditures for DOI services have declined by 27 percent. Division management attributes a portion of the reduction in expenditures for DOI services to intensified efforts by boards and bureaus to resolve cases rather than refer them to DOI.

The declining emphasis on enforcement can also be seen in the DOI inspection program. DOI currently inspects licensees

of nine agencies, but only five are provided inspections in substantial numbers. These five agencies represent approximately 18,255 establishments and schools and 306,325 licensees statewide. Each of these agencies has shown declines in the number of inspections. As the number of inspections has declined, the incidence of violations as a percentage of inspections has increased.\* For example, Board of Cosmetology licensees received 22,548 inspections in fiscal year 1975-76 with a 25 percent rate of violations per inspection. In fiscal year 1977-78 they received 15,140 inspections with a 33 percent rate of violations per inspection. Table 3 shows the decline in inspection activity and the increase in the ratio of violations per inspections performed.

---

\* Over this period there has been no significant decline in number of licensees for these five agencies.

TABLE 3  
COMPARISON OF INSPECTIONS AND VIOLATIONS BY  
SELECTED AGENCIES FOR FISCAL YEAR 1975-76  
AND 1977-78

Agency	Number of Establish- ments FY 75-76	Number of Inspections FY 75-76	Number of Violations FY 75-76	Violations as Percentage of Inspections	Number of Establish- ments FY 77-78	Number of Inspections FY 77-78	Number of Violations FY 77-78	Violations as Percentage of Inspections	Two-Year Change in Inspections	Two-Year Change in Violations
Board of Barber Examiners	1,642	12,632	2,039	16%	7,318	7,561	1,558	21%	-40%	-24%
Board of Cosmetology*	11,538	22,548	5,568	25%	18,255	15,140	4,947	33%	-33%	-11%
Board of Fabric Care	14,216	8,834	1,026	12%	13,572	5,386	911	17%	-39%	-11%
Bureau of Home Furnishings	23,600	12,544	2,391	19%	23,500	7,285	1,485	20%	-42%	-38%
Bureau of Repair Services	9,549	4,462	168	4%	9,660	2,631	129	5%	-41%	-23%

\* Includes licensed establishments and schools.



Interruption of Investigation  
and Inspection Activity

Eleven times in the past three fiscal years DOI has had to cease, reduce or otherwise modify the level of investigation or inspection activity performed for certain agencies due to depletion of funds or spending authority under the current funding method. In fiscal year 1977-78 four agencies ordered DOI to discontinue inspections or investigations. Table 4 shows the interruptions in investigation and inspection activities in fiscal year 1977-78.

TABLE 4

INTERRUPTION IN INVESTIGATION AND INSPECTION  
ACTIVITIES IN FISCAL YEAR 1977-78

<u>Regulatory Agency</u>	<u>Action Taken</u>	<u>Period of Interruption of Activities</u>
Board of Vocational Nurse and Psychiatric Technician Examiners	Cease investigation of 140 pending vocational nurse cases;	3/06/78 - 7/01/78
	Cease investigation of 50 pending psychiatric technician cases	4/04/78 - 7/01/78
Bureau of Collection and Investigative Services	Cease investigation of 3 pending cases	3/06/78 - 7/01/78
State Board of Landscape Architects	Cease investigation of 6 pending cases	1/27/78 - 7/01/78
Bureau of Home Furnishings	Interruption of routine inspections for various lengths of time	---

## CONCLUSION

The agencies are giving low priority to investigation and inspection activity. This is evidenced by the relative decline in expenditures for DOI services as well as the decline in the number of cases referred to DOI. In addition, there is no assurance that interruptions or reductions in pending or needed investigation or inspection activities will not occur as long as DOI is funded in the current manner.

## MATTERS FOR CONSIDERATION BY THE LEGISLATURE

The Legislature may wish to consider alternate funding methods to provide a stable and consistent level of funding for investigation and inspection activity within DOI. A stable and consistent level of funding could prevent instances of investigation and inspection activity being reduced or held in abeyance due to lack of funds.

Possible funding alternatives include:

- Pro rata assessment--special funds of boards and bureaus could be charged a level of support for activities of the Division of Investigation. A pro rata assessment could provide a stable level

of funding for investigation and inspection activities. This assessment could be levied based upon some historical amount of support to the division, such as a board's percentage of DOI expenditures in the past three years, and could be adjusted annually

- Mixed General Fund and special funds--this alternative could provide DOI with contingency funds to raise levels of investigation and inspection activity as necessary above the level of support available from special funds. Special funds could pay user-charges; however, in unusual circumstances where a high need for investigations exceeded a board or bureau's ability to pay for services, General Funds would be available to ensure that high priority investigations would not be interrupted or delayed.

The Department of Consumer Affairs stated in its November 1, 1978 report to the Legislature that it supports a mix of General Funds and special funds to support DOI activities.

THE DIVISION OF CONSUMER SERVICES'  
TIME REPORTING SYSTEM COULD BE IMPROVED

The Division of Consumer Services is supported by the Consumer Affairs Fund and the General Fund. The Consumer Affairs Fund, which derives support from special funds of boards and bureaus, pays for those activities which are reasonably related to activities of boards, bureaus and commissions of the Department of Consumer Affairs. Activities of the Division of Consumer Services which are not reasonably related to activities of boards, bureaus and commissions are funded by the General Fund. The Division of Consumer Services monitors its expenditures through a monthly summary of project costs. We found that the project cost monitoring system is inadequate because it:

- Relies upon broad and ambiguous project categories which may result in subjective allocation of activities
- Utilizes subjective and unsubstantiated ratios of fund splits for project categories
- Is partially duplicative of another attendance reporting system used by the division

- Provides information on unit activities which is too generalized to be a useful management tool.

As a result, accurate information on project costs relating to the General Fund or special funds of boards and bureaus is not collected and the information collected is not useful to management.

#### Background of Division of Consumer Services

The Consumer Affairs Act of 1970 sought to promote and protect the interest of consumers. The Division of Consumer Services has the major responsibility within the Department of Consumer Affairs for carrying out the Consumer Affairs Act. The division exercises many of the mandated powers and duties of the director, including the powers and duties to:

- (a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interest of consumers
- (b) Represent the consumer's interests before federal and state legislative hearings and executive commissions
- (c) Assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interests of consumers
- (d) Study, investigate, research and analyze matters affecting the interests of consumers
- (e) Hold public hearings; subpoena witnesses; take testimony; compel the production of books, papers, documents and other evidence; and call upon other state agencies for information
- (f) Propose and assist in the creation and development of consumer education programs
- (g) Promote ethical standards of conduct for business

and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services  
(h) Advise the Governor and Legislature on all matters affecting the interests of consumers  
(i) Exercise and perform such other functions, powers and duties as may be deemed appropriate to protect the interests of consumers as directed by the Governor or the Legislature  
(j) Maintain contact and liaison with consumer groups in California and nationally.

The division also carries out other specific duties of the director, such as handling complaints, intervening in or initiating legal actions and disseminating information.

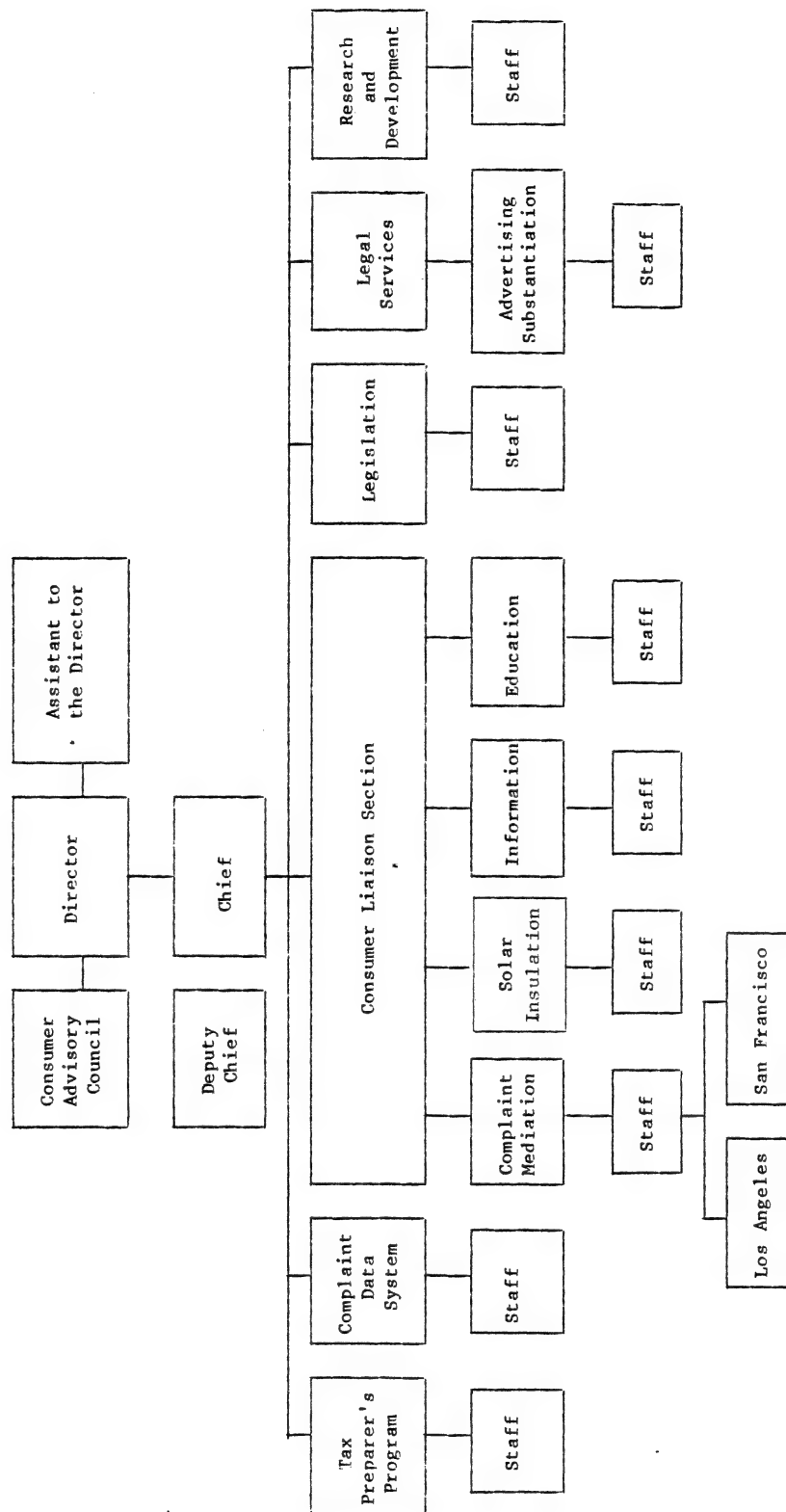
The division is organized into nine units, four of which report to the Consumer Liaison Section. Table 5 shows the organization of the division and details the individual units.

The estimated expenditures for the Division of Consumer Services in fiscal year 1977-78 were \$1,357,887. Of that total, an estimated \$1,043,005 was derived from General Fund support and \$314,882 was from the Consumer Affairs Fund. In fiscal year 1977-78, the ratio of funding was approximately 77 percent from the General Fund and 23 percent from the Consumer Affairs Fund.

TABLE 5

DIVISION OF CONSUMER SERVICES

1978



In 1976, the Attorney General issued an opinion which stated that division activities reasonably related to the activities of boards, bureaus and commissions could be supported by charges made to the Consumer Affairs Fund. Those division activities which are not reasonably related to the activities of the boards, bureaus and commissions should be supported from the General Fund.

Under the current system for monitoring project costs, unit clerks within the Division of Consumer Services maintain monthly activity reports for each employee. These reports are forwarded monthly to the Internal Auditor's Unit for summarization. Using previously identified categories of activities and ratios of board-related and nonrelated activities, the Internal Auditor's Unit allocates costs to each project and determines the overall ratio of board-related and nonrelated activities for the division. This information is returned to division management for monitoring the fund split between General Fund and special fund activities and use as a management tool.

#### Broad and Ambiguous Project Categories

Each unit within the division has a limited number of project categories (approximately 8 to 12) which are used to differentiate activities. These project categories are often broad and ambiguous and may result in subjective allocation of activi-



ties. Because the categories may have different ratios of General Funds and special funds, the determination of which category a project is assigned to can distort information on project costs. For example, in the Legal Services Unit, a complaint charged that a hearing aid company violated California's fair advertising laws in a variety of ways, including not informing consumers of the true medical nature of hearing deficiency, and also violated the California Home Solicitation Law. The case was assigned to the health care project category. This category allocates charges of 10 percent General Funds and 90 percent special funds. However, this particular case could easily have been placed in a number of other project categories, including: advertising (10 percent/90 percent); law enforcement (90 percent/10 percent); licensing and regulation (0 percent/100 percent); and marketing practices (90 percent/10 percent). Since these project categories are broad and ambiguous, the assignment of an activity to a project category is subjective, and the decision to allocate a case to a particular project category could distort information on project costs relating to General Fund and special fund activities.

Unsubstantiated Fund Split  
Ratios for Project Categories

As mentioned above, project categories are assigned funding ratios between General Fund and special fund activities.

These ratios are based on the decisions of unit and division management and are not substantiated by formal analysis. Since these ratios are estimates of whether the activities relate to boards, they do not necessarily reflect the actual ratios. For example, in the Education Unit the pamphlets and books project category is assigned a ratio of 50 percent General Fund and 50 percent special funds. However, an analysis prepared by the Education Unit of the 17 available pamphlets and books it prepares showed that 10 publications were nonboard-related, 2 were board-related and the remainder were some proportion of nonboard-related/board-related. Based upon this analysis, the actual ratio of publications available should have been approximately 75 percent General Funds and 25 percent special funds. Thus, the ratio of General Funds to special funds was understated by 25 percent.

Similarly, a review of cases by the Legal Services Unit revealed that six cases which were not board-related were assigned to project categories which had significant ratios for special funds. Four cases were assigned to project categories that were 10 percent General Funds and 90 percent special funds, and two cases were assigned to project categories that were 100 percent special funds. Thus, the ratio of General Fund charges were understated.

An analysis of the Information Unit's project category ratio for news releases demonstrated an overstatement of the

ratio of General Fund costs. For news releases the ratio of General Fund to special funds was 50/50 for a portion of fiscal year 1977-78 and was revised to 20/80 for the remainder of the fiscal year. An analysis of the 97 press releases issued in fiscal year 1977-78 showed that 36 percent were General Fund related and 64 percent were special fund related.

Dual Attendance  
Reporting Systems

Units within the Division of Consumer Services currently maintain two separate attendance reports: a monthly attendance report (Form 681), which is a daily record of attendance for each employee in the unit, and a monthly activity report (Form 99N-5), which is used to record each employee's time by project category. The monthly attendance report is used to provide official records to the Personnel Office on employee attendance, while the monthly activity report is used by the Internal Auditor's Unit to compute project costs.

Each of the reports is used for different purposes. However, the information gathered is similar and could be captured on a single attendance reporting form. The present system requires dual paperwork, time and effort to administer.

Project Cost Analysis of  
Limited Value to Management

Although considerable time and effort are expended in compiling and summarizing the project cost data, the project cost analysis is used solely by the Division of Consumer Services to monitor the ratio of General Fund and special fund splits. Project cost information could be a valuable management tool, but division management does not utilize it in its daily operations or for planning purposes.

Preparing data for the monthly project cost analysis is a lengthy task. A monthly activity report is completed for each division employee. These reports are reviewed by a clerk in the division chief's office, then the reports are forwarded to the Internal Auditor's Unit where three to four person-days are expended each month to summarize the data. Once the analysis is complete it is forwarded to division management.

The project cost analysis is used exclusively to monitor the ratio of fund splits. This may result from the fact that the project cost analysis is not completed in a timely manner and that certain cost information is not included in the computation of project costs. The chief of the Internal Auditor's Unit has stated that the monthly activity reports are usually not received for summarizing until approximately the 18th or 20th of the

following month. Also, certain cost data, such as costs of the Tax Preparer's Program which is self-supporting, are not included in the project cost analysis. While these limitations impose certain constraints, division management acknowledges that no adjustments have been made in project or activity levels based on the project cost analysis. The information is not used as a management tool or for planning purposes.

#### CONCLUSION

The project cost monitoring system is inadequate for use within the Division of Consumer Services. The project cost analysis relies upon broad and ambiguous project categories and utilizes subjective and unsubstantiated ratios of General Fund and special fund splits. As a result, accurate information on project costs is not collected. In addition, the project cost monitoring system duplicates the regular attendance reporting system to some extent and is not a useful management and planning tool.

#### RECOMMENDATION

We recommend that the Department of Consumer Affairs and the Division of Consumer Services develop an improved time reporting system for identifying project costs. Specifically, there is a need for more

appropriate project categories and improved substantiation of funding split ratios. The present monthly activity report should be integrated with the monthly attendance report to provide one meaningful attendance report and eliminate duplication. This new reporting system should provide timely and comprehensive information and be used for monitoring, controlling and directing division projects and activities in priority issue areas.

We also recommend that the Division of Consumer Services consider integrating the time reporting system with project evaluation efforts by establishing time reporting categories that are consistent with specific activities. This could provide work measurement data on staff resources used per unit of output.

#### CORRECTIVE ACTIONS TAKEN

During the course of our review, the Division of Consumer Services' Research and Development Unit was assigned the project of developing a new time reporting form. A draft of a new form is now being considered by management.

### OTHER PERTINENT INFORMATION

We were requested to provide additional information on the Department of Consumer Affairs' progress regarding problems previously identified in the Division of Consumer Services. These problems were related to exercising management control, establishing goals, objectives and priorities, and conducting program evaluations. We documented the remedial actions taken by the Department in each of these areas and formed general conclusions on the appropriateness of these measures. In addition, we were asked to provide information on the unit budgets and staffing in the Division of Consumer Services. This information is provided in Appendices A and B.

#### Management Control

The Department of Finance previously cited deficiencies in management control in the Division of Consumer Services.\* In a November 1, 1978 report to the Legislature, the Department of Consumer Affairs outlined various policies which had been instituted in the Division of Consumer Services to provide additional management control. The Department reported that policies were instituted regarding:

---

\* Management Review of the Division of Consumer Services, Department of Consumer Affairs, State of California Department of Finance, July 1978. Report No. S78-13.

- Activity reporting (monthly and quarterly)
- Record keeping
- Staff meetings (weekly for unit managers, monthly for entire division)
- Budget (including budgeting by unit)
- Lines of authority
- Working hours
- Personnel matters (transactions, hiring, attendance, overtime, sick leave, vacations, holidays)
- Use of volunteers (training, supervision, working conditions, insurance, rules of conduct)
- Assistance to boards and bureaus
- Unit administrative manuals.



We surveyed each unit within the Division of Consumer Services to verify that these policies had been established and to document the extent to which they had been implemented. We found that these policies had been established and were operational within each of the units in the division; however, the usefulness of the policies was affected by the varying quality of their implementation. For example, each unit is required to complete a monthly report. These reports are standard in format, open-ended and allow units flexibility in preparation. Certain units, such as the Legal Services Unit and the Complaint Mediation Unit, have provided detailed information in these reports describing and quantifying unit activities. Other units, such as the Advertising Substantiation Unit and the Cooperative Consumer Protection Program, have provided vague descriptive information and little quantified data regarding unit activities.

Similarly, units are now required to maintain administrative manuals. Some units, such as the Consumer Information and Education Units, maintain very detailed unit manuals; while other units, such as Research and Development and Complaint Mediation, have less detailed manuals.

Since the Department of Finance's review, division and unit management have taken positive steps to establish management control by implementing new policies and procedures. However,

there is a continuing need to refine and improve the implementation of these policies and procedures. In an effort to do so, division management recently held separate meetings with each unit manager to discuss management control issues.

Establishing Goals,  
Objectives and Priorities

The Division of Consumer Services was requested in Item 103 of the Supplemental Report of the Committee of Conference on the Budget Bill for 1978-79 to identify its goals and objectives, reassess the need for current activities, and develop guidelines for establishing priorities. The need for these actions was reiterated by the Department of Finance in its report. We reviewed the division's efforts in these areas by meeting with division and unit management regarding their activities and reviewing pertinent records and reports.

In response to Item 103 the division has developed a process for identifying goals and objectives, assessing activities and developing guidelines for establishing priorities. The division is currently implementing these procedures. Priority issue areas and sub-issue areas have been identified and goals have been established. The division has developed a task force to identify specific projects which need to be undertaken and quantify output objectives. This task force is scheduled to report their findings on January 15, 1979, after which the division intends to make the projects operational.

### Evaluation Activities

Item 103 instructed the Division of Consumer Services to establish measures of effectiveness. The Department of Finance report also determined the need for effectiveness measures. We met with division and unit management and the division's outside consultant regarding their efforts to improve evaluation activities. In addition, we reviewed division reports and the evaluation procedures and documents currently in use and those being developed.

Units within the Division of Consumer Services are conducting varying levels of evaluation of the effectiveness of their activities. For example, the Education Unit uses questionnaires and written evaluations to measure the impact and effectiveness of activities, including publications and public service announcements. Conversely, the Legislative Unit currently has no evaluation system to measure its impact.

Performance evaluation procedures are now being developed for the Consumer Education/Information, Research and Development, Advertising Substantiation, Legislative, Legal Services and Complaint Mediation Units. A division management meeting has been held and two sets of meetings with individual unit managers have been conducted by the division's consultant.


During these meetings, relevant workload outputs have been identified and various potential evaluation techniques have been suggested to fit the unique characteristics of activities within each unit. The procedures being considered include objective measures of readily quantifiable data and subjective measures using rating scales to measure characteristics such as satisfaction with and usefulness of activities.

In its December 1, 1978 report to the Legislature, the division listed specific evaluation techniques it was proposing to use for different activities within each unit. According to division management, these techniques will become operational in January 1979. We found that techniques relevant to various activities have been identified, but the division must now formalize the procedures and formats which will be used to collect data for evaluation. Additionally, the division should begin to establish standards of performance and develop data outlining acceptable ranges of impact for its activities.

Budget and Staffing

Appendices A and B provide information requested on the  
Division of Consumer Services' unit budgets and staffing.

Respectfully submitted,

  
\_\_\_\_\_  
THOMAS W. HAYES  
Acting Auditor General

Date: January 29, 1979

Staff: William M. Zimmerling, CPA, Supervising Auditor  
Robert T. O'Neill, Jr.  
James McAlister



DEPARTMENT OF

1020 N STREET, SACRAMENTO, CALIFORNIA 95814  
(916) 445-4465

January 25, 1979

Mr. Thomas W. Hayes  
Acting Auditor General  
Office of the Auditor General  
925 L Street  
Sacramento, CA 95814

Dear Mr. Hayes:

I have reviewed your draft report No. 853 entitled, "A Program Review of the Department of Consumer Affairs' Division of Investigation and Division of Consumer Services". As a general observation I agree with what I believe to be the intent of the discussion and recommendations. However, some clarifying comments are necessary in specific instances to distinguish the role and responsibility of the Department from that of the individual licensing boards and bureaus.

DIVISION OF INVESTIGATION - NEED FOR PROCEDURES FOR SCREENING AND ASSIGNING PRIORITIES TO INVESTIGATIONS

I agree with the basic conclusion of this section of the report that there is a need to screen and assign priorities to cases opened for investigation by the Division of Investigation. As the report points out, the Department has already requested boards and bureaus to review and update their enforcement priorities, and established a procedure within the Division of Investigation to review cases for jurisdiction prior to investigation.

However, the ability of the Department (and the Division) to exert influence in this area is limited. By statute a board has complete authority for enforcement. The Department can urge that boards review and set priorities for referring cases to investigation, but to actually set priorities or screen cases would, in my opinion, be inappropriate. Thus, while I agree with the need for the boards and bureaus to set priorities, I must disagree with the recommendation that the Division of Investigation establish formal procedures to screen and assign priorities to cases and to establish selection criteria and procedures for selection of establishment for inspection.

Mr. Thomas W. Hayes  
January 25, 1979  
Page -2-

#### FREQUENCY OF INSPECTIONS

I agree that fewer inspections are made than are actually required by board and bureau policy. I must disagree with the statement in the body of the report that attributes the cause to insufficient inspector staffing. The actual staffing of inspectors is a direct function of the amount of funds allotted by the boards for inspections. There are currently four vacant inspector positions which could be filled if inspection activity were to increase. Thus, the problem is not the low level of inspector staffing but the fact that the funds allotted by the boards themselves for inspection do not match the stated policies regarding frequency of inspection.

#### FUNDING OF THE DIVISION OF INVESTIGATION

I agree with the auditors' suggestion that the Legislature should consider alternative funding methods to provide a stable and consistent level of investigation and inspection activity. I must challenge the conclusion that lower expenditures for Division of Investigation services as well as the decline in the number of cases referred to the Division of Investigation means that lower priority is being given to this activity.

As the auditors indicated, the Department has been urging boards and bureaus to screen cases and set priorities for investigation. If this policy is effective - and it seems to be taking hold - it should reduce both the dollars expended for Division of Investigation services and the actual number of cases referred for investigation. Also, as the cases now sent to the Division are increasingly the more complex and thus the more costly, the boards, of necessity, must prioritize and concentrate on fewer cases as available funds remain relatively stable.

In addition, it should not be assumed that the cause of enforcement funds being depleted is necessarily poor budget planning. One or two unusually difficult cases (including suits against a board) or an unusual number of cases due to outside circumstances, such as a widespread investigation, can use up a board's entire budget allotment.

Mr. Thomas W. Hayes  
January 25, 1979  
Page -3-

DIVISION OF CONSUMER SERVICES

The report correctly indicates that although administrative policies are now in place and operating, some adjustments are needed to increase their effectiveness as management devices. The monthly report requirement was cited specifically in this regard; however, the auditors neglected to mention the quarterly reporting requirement which requires detailed information from unit managers. We expected some problems when we established these procedures and have been critiquing the reports to inform unit managers of the quality expected.

As for the recommendations regarding the project cost reporting system, the division is investigating options to the present system. The staff is working with our Internal Auditors to devise a procedure that will serve the dual roles of apportioning costs between the two funding sources and providing management information to the division.

Finally, on page 40, the auditors recommend that "... the division should begin to establish standards of performance and develop data outlining acceptable ranges of impact for its activities". A study has been completed which outlines various evaluation techniques. As soon as specific evaluation tools have been selected that can be implemented economically, we will establish corresponding performance parameters to measure the impact of specific projects.

In conclusion I would like to thank you for the opportunity to review, provide input, and respond to this report prior to its publication. I also appreciate the professional and constructive approach that your staff took in conducting this review.

Sincerely,

  
RICHARD B. SPOHN  
Director

RS/sms



DEPARTMENT OF CONSUMER AFFAIRS  
DIVISION OF CONSUMER SERVICES  
PERSONNEL STAFFING AS OF DECEMBER 4, 1978

<u>Unit</u>	<u>Filled Positions</u>
Advertising Substantiation	2 Staff Services Analysts 1 Clerk Typist II
Cooperative Consumer Protection Program	1 Associate Programmer Analyst 1 Data Processing Technician 1 Office Assistant II 2 Student Assistants
Consumer Liaison	1 Consumer Liaison Officer 1 Senior Clerk
Complaint Mediation	2 Consumer Services Representatives 3 Clerk Typists II (Sacramento) 2 Clerk Typists II (San Francisco) 3 Clerk Typists II (Los Angeles)
Education	1 Assistant Information Officer 1 Staff Services Analyst 1 Clerk Typist II 1 Graduate Student Assistant
Information	1 Assistant Information Officer 2 Clerk Typists II
Solar/Insulation	1 Project Coordinator 1 Consumer Services Representative 1 Office Assistant II
Executive	1 Chief 1 Deputy Chief 1 Clerk Typist II 1 Senior Stenographer
Legal Services	2 Staff Counsel II 1 Legal Counsel 1 Clerk Typist II 1 Senior Legal Stenographer 2 Legal Typists

<u>Unit</u>	<u>Filled Positions</u>
Legislative	1 Legislative Coordinator 1 Legal Counsel 1 Administrative Assistant I 4 Staff Services Analysts 3 Clerk Typists II 1 Clerk Typist
Research and Development	1 Program Review and Planning Manager 1 Staff Services Analyst 3 Associate Governmental Program Analysts 1 Clerk Typist II

Department of Consumer Affairs  
Division of Consumer Services  
Fiscal Year 1978-79 Budget

Line Item	EXEC.	C.M. Sacto	C.M. S.F.	C.M. L.A.	CLO	EDUC.	INFO.	LEGAL	AD. SUB.	LEGIS.	R & D	IN-KIND SVC.	TOTALS
PERSONAL SERVICES													
Salaries & Wages	80994	44637	39925	40745	30746	43563	3458	189909	37896	159747	123723		825343
Temporary Help	10384					2858	809	1848		7200	6849		29946
Hotline Overtime	3365												3365
Planned Adjustments													34399
Salary Savings	<21925>	13109	992		2607	<15701>	116	2174	2055	7207	6139		<82787>
Subtotals	<1142>	<1142>	<5831>					<12393>	<718>	<2501>	<22474>		<82787>
Staff Benefits	72818	56604	35086	40745	33353	30718	35383	180538	39233	171553	114237		810268
TOTAL PERSONAL SERVICES	17684	14247	8831	10256	8395	7732	8306	45441	9825	43180	28753		201300
	90502	70851	43917	51001	41748	38450	44289	225979	49108	214733	142990		1013566
OPERATING EXPENSES & EQUIP.													
General Expenses	4978	2935	1200	1200	1225	4002	17200	7000	1350	9031	8000	491	58612
Printing	2500	590				49793	6100	160	200	8121	500	410	68374
Telephones	2750	2500	1200	2400	1200	1080	1200	5000	1380	3480	2900		25090
Postage	2500	2700	900	900	400	600	15470	2100	1450	3835	1500	1596	33951
Travel-In-State	1200	1000	100	200	2500	1200	1000	11477	1000	11350	8000		39027
Rent	6702	4370	3729	7191	2329	2241	5520	12514	2362	8281	7220	2839	65298
Copywork	1800	360	120	120	240	350	600	7300	350	1800	1800	240	15080
Svcs. from Other Agencies		7196				6196	12768	8000		3500	1000		25160
Contractual Services								18216		300			12500
Enforcement											1980		18516
Data Processing													3651
Training	300	357	284	284	143	143	214	642	214	642	428		1930
Building Maintenance	15	15	15	15	10	15	15	25	15	25	25		190
Gen. Svcs. Bldg. Mntce	25	25	25	25	25	25	25	50	25	50	50		350
Hotline Charges	15000												15000
Unit Pricing	5000												5000
Equipment	700												5000
Prorata Charges	6102	4206	85				1600	800					3185
TOTAL OPER. EXP. & EQUIP.	49572	25254	8191	1422	1066	4739	4798	13625	2370	12440	7701	238	59240
				13757	9138	70384	66510	86909	10716	62855	41104	5814	450204
TOTAL EXPENDITURES	140074	96105	52108	64758	50886	108834	110799	312888	59824	277588	184094	5814	1463772
REIMBURSEMENTS			<39932>	<32672>	<26850>					<4506>	<6000>		<109960>
NET TOTAL EXPENDITURES	140074	96105	12176	32086	24036	108834	110799	312888	59824	273082	178094	5814	1353812

Source: Division of Consumer Services, Department of Consumer Affairs.

Note: Organization chart on page 27 provides unit titles for units in Division of Consumer Services.

Office of the Auditor General

cc: Members of the Legislature  
Office of the Governor  
Office of the Lieutenant Governor  
Secretary of State  
State Controller  
State Treasurer  
Legislative Analyst  
Director of Finance  
Assembly Office of Research  
Senate Office of Research  
Assembly Majority/Minority Consultants  
Senate Democratic/Republican Caucus  
California State Department Heads  
Capitol Press Corps